CONCLUSION

Wherefore, the respondent submits that the rule in the 7th circuit and in Michigan, applied in this case, is correct.

Respectfully submitted,

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No. 04-1360

Supreme Court, U.S.
FILED
AUG 2 5 2005
OFFICE OF THE CLERK

In The
Supreme Court of the United States

BOOKER T. HUDSON, JR.,

Petitioner,

v.

MICHIGAN,

Respondent.

On Writ Of Certiorari To The Michigan Court Of Appeals

JOINT APPENDIX

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RELEVANT DOCKET ENTRIES

STATE OF MICHIGAN,
WAYNE COUNTY CIRCUIT COURT

CASE # 98010141 NAME: HUDSON, BOOKER T. JR.

CHARGES/RESULTS: Possession with intent to deliver controlled substance <50 grams: Not Guilty; Felony Firearm: Not Guilty; Possession of controlled substance <25 grams: Guilty

DATE	PROCEEDING	RESULT
	* * *	
09/15/1998	Exam	Held, Bound Over
	* * *	
04/15/1999	Motion to Suppress Evidence	
	* * *	
10/10/2000	Evidentiary Hearing	Dismissed
	* * *	
10/22/2002	Waiver Trial	In Progress
10/23/2002	Waiver Trial	Found Guilty
	* * *	
12/19/2002	Sentence	Sentenced

RELEVANT DOCKET ENTRIES

MICHIGAN COURT OF APPEALS

Case Number: 230594 People of MI v Booker T. Hudson

* * *

10/25/2000	Claim of Appeal-Criminal
10/10/2000	Order Appealed From From: Wayne Circuit Court Case Number: 98-010141 Trial Court Judge: Thomas, Deborah A. Nature of Case: Prosecutor's Appeal Dismissal

* * *

1/31/2001	Motion: Peremptory Reversal

* * *

5/1/2001	Order: Peremptory Reversal-Grant

* * *

5/22/2001	Application for Leave to SCt

* * *

12/18/2001	SCt Order: Deny

RELEVANT DOCKET ENTRIES

MICHIGAN COURT OF APPEALS

Case Number: 246403 People of MI v Booker T. Hudson

1/29/2003	Claim of Appeal-Criminal
12/19/2002	Order Appealed From From: Wayne Circuit Court Case Number: 98-010141 Trial Court Judge: Youngblood, Carole F. Nature of Case: Control Subs-Possess < 25grs
	* * *
6/17/2004	Opinion-Memorandum Result: L/Ct Judgment/Order Affirmed
8/11/2004	Application for Leave to SCt
	* * *
1/31/2005	Deny

STATE OF MICHIGAN

36TH DISTRICT COURT FOR THE
CITY OF DETROIT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF MICHIGAN	36th District Court No. 98-65315
vs.	
BOOKER T. HUDSON, JR.	Circuit Court No. 98-10141

PRELIMINARY EXAMINATION

BEFORE THE HONORABLE
PATRICIA L. JEFFERSON, DISTRICT JUDGE

Detroit, Michigan – Tuesday, September 15, 1998

* * *

[p. 4]

JAMAL GOOD

DIRECT EXAMINATION

* * *

Q: Were you on duty, working with that unit, on August 27th of 1998, in the City of Detroit, with other Detroit police officers, including Police Officer Raymond Williams?

A: Yes, sir.

Q: Your assignment that afternoon was what?

A: I was the shotgun man.

Q: With the execution of a search warrant?

A: Yes, sir.

Q: What did the search warrant entitle you to do?

[p.5]

A: Search the location for weapons and narcotics.

Q: What was the location?

* * *

A: 4469 West Jeffries.

Q: That location was in the City of Detroit?

A: Yes, sir.

Q: Did you go with a crew of officers to that location in an effort to execute the search warrant?

A: Yes, sir, I did.

Q: What was your approximate time of arrival there?

A: Referring to my PCR it was 3:35.

Q: P.M.?

A: P.M.

Q: Did you effect an entry into the location based upon the search warrant?

A: Yes, sir.

Q: Did you see anything upon entry?

A: Yes, sir, I did.

Q: What?

A: The Defendant in the living room.

* * *

[p.6]

Q: When you spotted Mr. Hudson, the Defendant, tell the Judge what you saw.

A: Well, he was sitting in a chair as you go through the door.

* * *

Q: What else did you see, if anything?

A: Froze the Defendant in that area and I continued through with clearing the dwelling.

* * *

[p.7]

Q: When you saw Mr. Hudson again, where was he the second time?

A: He was already being detained standing up at which time I went over and searched him.

Q: How far was Mr. Hudson from the chair at that time?

A: Actually he was right next to the chair.

Q: When you searched Mr. Hudson your intent was what?

A: To search him for any type of weapons or narcotics that he may have had.

Q: That was for self protection purposes?

A: That's correct.

Q: Did you discover anything during the course of that pat down?

A: Yes, sir.

Q: What?

A: Mr. Hudson had five rocks of suspected cocaine in his left front pants pocket.

* * *

[p.10]

Q: This structure that you entered on Jeffries Street, was that a single family dwelling house?

A: Yes.

Q: Were there other people in the house other than [p.11] Mr. Hudson, the Defendant?

A: Yes.

Q: Where were they at?

A: Actually they were all through the house, mostly towards the rear in the kitchen area.

* * *

CROSS-EXAMINATION

* * *

[p.12]

Q: When you entered the premises you were the first person through the entryway, correct?

A: Yes.

Q: When you approached the doorway, did you knock on the door?

A: Yes. Well, I announced presence and purpose.

Q: So you were the officer that announced your presence and purpose?

A: Well, I announced and I believe other officers did because we blurt it out so everyone knows who we are and the purpose for it.

Q: But you specifically announced –

A: I did myself, yes.

Q: But you're indicating that you just approached the door and announced your presence, you did not knock on that door; is that correct?

A: I did not knock.

Q: And upon approaching that door, you would have been the person closest to the door to knock; correct?

A: Yes.

[p.13]

Q: How long after this group announcement did you enter the premises?

A: Maybe three, four seconds.

Q: So you certainly did not wait for anybody to answer the door; correct?

A: Correct.

* * *

[p.14]

Q: And you've indicated that this was – how many officers were involved in that raid?

A: I'd say about seven maybe possibly.

* * *

STATE OF MICHIGAN

IN THE CIRCUIT COURT
FOR THE COUNTY OF WAYNE

PEOPLE OF THE
STATE OF MICHIGAN

Case No. 98-10141
Hon: Deborah A. Thomas

vs.

BOOKER T. HUDSON,

Defendant.

MOTION TO SUPPRESS EVIDENCE AND STATEMENTS SEIZED IN VIOLATION OF THE UNITED STATES CONSTITUTION, THE MICHIGAN CONSTITUTION, AND MCL 780.656, AND REQUEST FOR EVIDENTIARY HEARING

[Filed Apr. 15, 1999]

Now comes Defendant Booker T. Hudson, by and through his attorney, Richard D. Korn, and respectfully moves this Honorable Court to suppress all evidence and statements obtained in violation of the Fourth and Fourteenth Amendments to the United States Constitution, Article 1, Section 11 and 17 of the Michigan Constitution of 1963, and MCL 780.656, and in support of this motion, states as follows:

1. Defendant is charged with Possession with Intent to Deliver Less than 50 Grams of Cocaine, MCL 333.7401(2)(a)(iv), and Felony Firearm, MCL 750.227b.

2. On August 27, 1998, the police executed a search warrant at 4469 West Jeffries, Detroit, Michigan.

3. The police did not properly knock and announce their presence before forcing entry into the apartment, and the subsequent search and seizure was in violation of the laws and constitutions of the State of Michigan and the United States.

4. All evidence and statements obtained as a result of the unlawful entry should be suppressed as "fruit of the poisonous tree."

Wherefore, Defendant respectfully moves this Honorable Court to suppress all evidence and statements obtained in violation of the Fourth and Fourteenth Amendments to the United States Constitution, Article 1, Section 11 and 17 of the Michigan Constitution of 1963, and MCL 780.656.

Defendant respectfully requests an evidentiary hearing in connection with this motion and respectfully requests the production of police officer Jamal Good at the evidentiary hearing.

BRIEF IN SUPPORT OF MOTION TO SUPPRESS EVIDENCE AND STATEMENTS SEIZED IN VIOLATION OF THE UNITED STATES CONSTITUTION, THE MICHIGAN CONSTITUTION, AND MCL 780.656, AND REQUEST FOR EVIDENTIARY HEARING

The Fourth and Fourteenth Amendments to the United States Constitution, Article 1, Section 11 and 17 of the Michigan Constitution of 1963, and MCL 780.656 require police officers to knock and announce their presence and purpose prior to entering a premises. Police officers executing a search warrant may forcibly enter the